

RESPONSE TO RESTRICTION AND ELECTION OF SPECIES REQUIREMENTS AND
SECOND PRELIMINARY AMENDMENT

Attorney Docket No.: Q92245

U.S. Application No.: 10/561,973

REMARKS

This responds to the Restriction and Election of Species Requirement dated January 29, 2009.

Response to Restriction Requirement

In response to the Restriction Requirement, Applicants elect for examination **Group V, claims 14-18 and 23 - 27**. In the Requirement, the Office identifies claims 1-18 as encompassing the invention of Group V. In the accompanying amendment, Claims 23-25 are added and claim 14 is amended to refer to claim 23, which recites elected group of compounds. Claims 23-25 may be supported by original claims 1-13 as well as by the description of preferable groups, disclosed, for example, at page 17, second paragraph and after of the specification. Claim 25 is supported by the disclosure of the specification, Examples 16 and 17 as well as original claim 13.

The above election is made without traverse.

Applicant submits that any of the elected claims is found to be allowable, claims dependent therefrom or claims contains all the limitations of such allowable claims, such as claim 21 should similarly be considered allowable in the same application.

Applicant reserves the right to file a Divisional Application directed to non-elected inventions.

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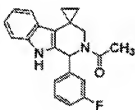
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Response to Species Election Requirement

This responds to the Election of Species Requirement dated January 29, 2009. The Examiner has identified the application as containing claims directed to more than one distinct species. The Examiner has required the Applicants to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted.

In response to the Examiner's requirement, Applicants elect for examination **2-acetyl-1-(3-fluorophenyl)-1,2,3,9-tetrahydrospiro[β -carboline-4,1'-cyclopropane]** described in **Example 17:**



, on which 23-25 and 14-18 are readable.

In the Requirement, the Examiner indicates that the Group V may be subject to further restriction. Applicants respectfully submit that the invention of Group V complies all requirements of unity of the invention under PCT Rule 13.1 and 13.2.

The elected inventive compounds share a significant structural feature, a cycloalkyl which forms spiro binding with β -carboline ring (which corresponds to a ring formed by R⁴ with R⁵), among species of the Group. Such structural feature is not taught by Halshan, J. Med. Chem. 2000, page 1578 cited by the Examiner in the Restriction. Therefore, it is believed that

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the species of elected Group V shares a structural feature common to the species, and the compounds are not taught in art, the elected group V should not be further restricted.

Furthermore, Applicant submits that if the elected compound is free from the prior art, then the remaining non-elected species of Group V also be examined.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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